IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 6498 OF 2003

Prof. A. V. Phadke..... .... Petitioner.
Versus
Registrar, University of Pune & Ors... Respondents.

Mr. R. S. Apte i/by Mrs.Meenal Bhate
for the Petitioner.

Mr.G.S.Kulkarni i/by Ms.M.G.Kulkarni
for Respondent Nos.1 to 4.

Mr. P.M. Patil, AGP for Respondent No.5.

CORAM : R. M. LODHA &
NARESH H. PATIL, JJ.

DATED : 11TH AUGUST, 2006.

P.C. :

We heard Mr. R. S. Apte, Counsel for the petitioner, Mr. G. S. Kulkarni, Counsel for respondent nos.1 to 4 and Mr. P. M. Patil, Assistant Government Pleader, for respondent no.5.

2. While issuing notice to the respondents by order dated 30th September, 2003, this Court made it clear that the petition shall be disposed of at the admission stage itself. We, accordingly, hear and decide the matter finally at this stage.

3. Prof. A. V. Phadke - the petitioner herein,

retired as a professor of Geology, University of Pune, on 31st January, 1997 after attaining the age of superannuation. He has been denied encashment of earned leave by the University of Pune necessitating the present writ petition.

4. Statute No.424(c) reads thus:

> "Teacher shall be entitled to encash earned leave in balance to his credit on the date of his superannuation subject to a maximum of 180 days".

5. According to the petitioner, he had earned leave to his credit on the date of his superannuation. He made various representations to the University of Pune for payment thereof and when no heed was given to his representations, he lodged complaint with the Grievance Committee, University of Pune, Pune. In his Complaint No.3 of 2000 the Grievance Committee held that Statute 424(c) was binding on the University and that the petitioner was entitled to encashment of earned leave in balance to his credit as per Statute No.424(c).

6. Despite the decision of the Grievance Committee in favour of the petitioner, the University of Pune failed

to make due payment to the petitioner towards encashment of earned leave in balance to the credit of the petitioner.

7. The Counsel for the respondents nos.1 to 4 prayed for adjournment to enable him to file affidavit in reply which he said was ready but could not be filed due to inadvertence. We are unable to accede to the request of the Counsel for the respondent nos.1 to 4. The writ petition pertains to the year 2003 and the respondents were served long back. Inadvertence in filing the reply could not be justifiable excuse for adjournment of the matter like this. The respondent no.1 shall hold an enquiry into this lapse. Be that as it may, the fact of the matter is that the Grievance Committee has already gone into the issue and held that the petitioner is entitled to encashment of earned leave. The respondent no.4 through respondent no.1 has to abide the decision of the Grievance Committee in Complaint No.3 of 2000 and make due payment towards the encashment of earned leave standing to the credit of the petitioner.

8. We, accordingly, dispose of the writ petition by the following order:

(a) The respondent no.4 through respondent no.1 is

directed to make due payment to the petitioner towards the encashment of earned leave in balance to his credit on the date of his superannuation subject to maximum of 180 days. The payment shall be made on or before 10th September, 2006.

(b) If, no payment is made to the petitioner by the aforestated time, the respondent no.4 shall be liable to pay interest at the rate of six per cent per annum on the due amount from the date of decision of the Grievance Committee in Complaint No.3 of 2000 until the actual payment is made.

(c) The respondent nos.1 to 4 are also directed to pay the costs of Rs.2,500/- to the petitioner.

Sd/-

(R. M. LODHA, J.)

Sd/-

(NARESH H. PATIL, J.)